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Convention on the Elimination of All Forms of Discrimination against Women

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Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

List of issues and questions in relation to the combined fourth and fifth periodic reports of Namibia

Addendum

Replies of Namibia**

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Note: The present document is being circulated in English, French and Spanish only.

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** The present document is being issued without formal editing.

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Legal status of the Convention and legal framework

1. (a) The convention was interpreted in the case of Muller v President of the Republic of Namibia & Another 1999 NR (SC) at 205E-F.

(b) The observations and recommendations were disseminated through consultative meetings with stakeholders from Government, faith based organisations, private sector and civil society to contribute to the process of providing information.

(c) This inconsistence is taken care of by the Recognition of Customary Marriages Bill, Child Care and Protection Bill which all set the minimum age for marriage at 18.

(d) The enjoyment of rights by women in Namibia is protected by the Namibian Constitution, the Supreme law, under Article 10.

2. (a) Recognition of Customary Marriages Bill: consultations are being undertaken with traditional leaders.

(b) The Child Care and Protection Bill: This bill is approved by Parliament and is waiting to be gazetted.

(c) The Procurement Bill: The Bill was tabled at Cabinet Committee on Legislation but withdrawn as sufficient consultations were not done, therefore Cabinet instructed all role players to obtain more information through proper consultations.

(d) Marital Property Bill: More consultations need to be done before the bill can be re-tabled at the Cabinet Committee on Legislation.

(e) Divorce Bill: The Bill contains a no-fault divorce regime which is based on the ground of irretrievable breakdown of marriage, as is widely used internationally. Civil Society has been involved in the law reform process. More consultations are being conducted with all stakeholders before the Bill is presented to the Cabinet Committee on Legislation.

Data collection

3. The government through the Ministry of Gender Equality and Child Welfare has established and launched a National Database on Gender Based Violence (GBV) in Namibia in March 2006. The database was created to strengthen the efforts by the Ministry and its stakeholders at combating GBV which is on the increase. At present the Ministry of Gender Equality and Child Welfare and the Ministry of Safety and Security, department police are in the process to upgrade the E-policing system for the Police to take over the function and management of the GBV database system.

To address the situation, an attempt was made to integrate domestic violence into the study tools of the National Demographic Health Survey conducted in 2012, but the DHS only focused on domestic violence. These cases do not constitute other cases of gender based violence such as baby dumping, rape or defilement, trafficking of women and girls, battery or violence against women and girls that happen outside the domestic sphere.

The country is yet to develop a national gender statistical system with clear indicators and targets for all national programmes with the assistance of UNECA, the country will conduct a Gender Index Study this year (2015).

National machinery for the advancement of women

4. Replacing of the Gender Commission: The gender commission was replaced by Coordination Mechanism on the Implementation of the National Gender Policy. In Namibia, gender has been mainstreamed through the establishment of the Coordination Mechanism on the Implementation of the National Gender Policy structure which includes all OMAs, NGOs, FBOs, Civil Society, Academia, Development Partners and Traditional Authorities from national to regional levels; with the purpose to ensure effective implementation of the National Gender Policy across sectors. The coordination mechanism is a multi-sectoral structures consisting of the High Level Gender Advisory Committee (GAC) made up of Cabinet Ministers, the National Gender Permanent Task Force (NGPTF) made up of Permanent Secretaries from all OMAs, the National Gender Permanent Task Force (NGPTF) and the Regional Gender Permanent Task Force (RGPTF).

The National Gender Policy's 12 areas of concern are now clustered into six (6) clusters, which are:

1. Gender Based Violence (GBV) and Human Rights
2. Health, HIV and AIDS;
3. Education and the Girl Child
4. Poverty, Rural and Economic Development
5. Governance, Peace and Security
6. Media, Research, Information and Communication

These six clusters are chaired by various sectors and are operating at national level and also filtered to regional levels. The sectors budget for activities of clusters they belong to. They meet on quarterly basis.

The National Gender Permanent Task Force (NGPTF) is responsible for overseeing the overall implementation of the National Gender Policy and the National Gender Plan of Action. It is the highest technical consultative body comprising of Permanent Secretaries, representatives of higher institutions of learning, key private sector institutions, State Owned Enterprises (SOEs), development partners, NGOs, faith based groups and media houses. The Chair of the NGPTF shall be the Permanent Secretary of the Ministry of Gender Equality and Child Welfare. The NGPTF shall meet once every three months and shall report to the GAC at least twice a year.

The CLUSTERS are primarily responsible for ensuring the implementation of the NGPA. They will identify and make recommendations on compliance with relevant international, regional and national laws and instruments to which Namibia is a party. Representation in CLUSTERS comprises of gender focal persons (GFPs) and representatives nominated by various government O/M/As, private sector, academic institutions, development partners, NGOs, faith based groups, media houses and civil society.

a) Impact of the gender responsive budgeting:

In 2010 the Government through the MGECW commissioned a participatory gender responsive budgeting analyses of four sectors namely education, health, finance and agriculture. These assessments indicated that adopting a gender perspective can help to make government efforts in the named sectors more targeted and help to improve education and agricultural outcomes. In addition to developing GRB training manuals for higher institutions of learning, various stakeholders including Members of Parliament, Bank of Namibia, Agricultural Bank of Namibia, University of Namibia, Polytechnic of Namibia and International University of Management were trained on GRB.

In this regard, Cabinet approved gender responsive budgeting (GRB) and gave directives to offices, ministries and agencies (OMAs) to include GRB in their programmes, projects and activities. To this effect the Ministry of finance incorporated gender guidelines into the budget call circular for 2015/16 financial year for OMAs to budget accordingly. In addition, Accounting Officers of all OMAs were directed to ensure gender issues are incorporated in all sector policies, programmes, plans, budgets, implementation, monitoring and evaluation. The initiative has also led to many OMAs interested to learn more about GRB and how it relates to their mandates for effective implementation.

b) All institutions are to implement the National Gender Policy as well as all gender related instruments including CEDAW. The gender responsive budgeting guidelines are to be used by all OMAs in line with the Cabinet decision, which requires that they prepare their budget proposals in adherence with the principle of gender responsive budgeting; to strengthen and provide a standardised framework for strengthening the mainstreaming of gender perspective in budgeting processes and contribute to gender equality and the empowerment of women and girls. The guidelines are generic and applicable to all OMAs to provide OMAs with a standard tool to identify gender issues corresponding to their respective mandates by undertaking a gender analysis of the respective sectors to identify appropriate activities, cost them and incorporate in budget proposals within the medium term expenditure framework (MTEF).

Mainstreaming gender in all government structures is also catered under the Coordination Mechanism for the Implementation of the National Gender Policy.

c) Civil society organisations are key stakeholders in the advancement of women's rights. They are involved in all activities concerning gender issues and they are part of the coordination mechanism, being members of all the six clusters at national and regional levels. They also raise awareness on rights of women, educating them on which laws are applicable; they advocate and influence policy making to reflect the rights of women dealing with education, rural development and network with women to strengthen their voices.

d) Gender focal points were instrumental in the consultation process to develop the National Gender Plan of Action (2010-2020), which is serving as a basis for gender mainstreaming across sectors. It is also assisting in the process of implementing the gender responsive budgeting guidelines which approved by Cabinet in 2014. To larger extent gender focal points are members of the clusters under the coordination mechanism and play a role in coordinating meetings of clusters chaired by their respective OMAs. Some Gender Focal Persons have used

the National gender policy to influence structural adjustments in their OMAs. An example being the Ministry of Agriculture, Water and Forestry that has established a Gender and HIV Mainstreaming Unit, the Ministry of Defence elevated its structure from a Gender Desk to a Gender Division headed by a colonel at a Deputy Director level.

Access to justice

5. The Namibian laws against Gender Based Violence are gender neutral and protect both men and women equally. Several pieces of legislation including CEDAW can be invoked by the courts to protect women against gender based violence. Chief among them is the Combating of Rape Act, Combating of Domestic Violence Act, Combating of Immoral Practices Act, Criminal Procedure Act of 1977, Labour Act of 2007, Maintenance Act as well as the Prevention of Organized Crime Act of 2006.

The Namibian Police offers Human Rights training to its members, which also include mechanisms against gender based violence on the following topics:

- The Bill of Rights as enshrined in chapter 3 of the Namibian Constitution
- Namibian Police (Basic Training and development courses) Legal Rights and the Constitutional Study Guide.
- Namibian Police Human Rights Manual

Furthermore, the Namibian Police provides developmental courses for capacity building to its members through different tertiary institutions including Police Training Colleges.

In addition, the Southern African Regional Police Chiefs Cooperation Organization (SARPCCO) provides training on code of conduct, human rights and policing towards ethical policing on which the following topics are covered.

- Human Rights and Policing
- Major Human Rights Instruments
- The Universal Declaration of Human Rights
- The International Covenant on Civil and Political Rights
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The African Charter on Human and Peoples' Rights
- The Convention on the Rights of the Child
- The Convention on the Elimination of All Forms of Discrimination Against Women

The Namibian Police Force offer Human Rights courses at its basic training to their recruits. In addition, Southern African Regional Police Chiefs Cooperation Organization (SARPCCO) provides training on code of conduct, Human Rights and policing towards ethical policing on which the following topics are covered.

- Human Rights and Policing
- Major Human Rights Instruments
- The Universal Declaration of Human Rights
- The International Covenant on Civil and Political Rights
- Convention against Torture and other cruel, Inhuman or Degrading treatment or punishment
- The African Charter on Human and Peoples' Rights
- The Convention on the Rights of the Child
- The Convention on the Elimination of all forms of Discrimination against Women

The Legal Aid Act, Act No. 29 of 1990 as amended, by Act No. 17 of 2000 provides for a legal aid scheme in Namibia. This scheme was envisaged by the framers of the Namibian Constitution. Article 95(h) of the Namibian Constitution provides for the promotion of "a legal system seeking to promote justice on the basis of equal opportunity by providing free legal aid with due regard to the resources of the State". The Legal Aid scheme is administered by the Directorate of Legal Aid headed by a Director.

The Legal Aid scheme is intended to ensure fair trial by providing legal assistance to people with inadequate means to pay for legal services. The granting of legal aid is based on a "means" test as well as a "merit" test. The scheme also provides for both referral and public defender models. Thus, the Director may instruct in-house lawyers (public defenders/Attorneys) or private legal practitioners. Furthermore, legal aid may also be granted to applicants where the State agents violate individual's right including divorce matters and it is therefore not limited to criminal matters.

Victims of crime are as a matter of principle and law represented by the Prosecuting authorities. Section 300 of the Criminal Procedure Act provides for compensation to victims of crimes at the initiative of the Public Prosecutor for liquidated claims.

Other measures recently introduced to enhance women's access to justice include "court connected mediation" spearheaded by the High Court of the Republic of Namibia. Court connected mediation is a less costly exercise that is aimed at resolving disputes in a manner that is inexpensive to both parties in matters related to divorce and family matters, contracts among others.

The University of Namibia runs a free legal aid clinic that mostly caters for the poorest and vulnerable members of society, especially women and the elderly.

Temporary special measures

6. Namibia's different levels of government present a similar disparity, with the different levels and sectors showing marked differences: **Local:** 41% women; **Regional:** about 3%; **National:** 20% women in Parliament; **Ministers:** 3 out of 19 are women, plus the Director-General of the National Planning Commission; **Civil service** — senior management positions: 24% women; **Parastatals** — senior management positions: 12% women.

There are a number of reasons for this present distinction. Firstly, an affirmative action provision for women applied to the first two local government elections. Secondly, interviews conducted by the Legal Assistance Centre to assess the operation of this affirmative action provision indicated that some people think that local government is not really about 'politics' but about community issues and is thus more suitable for women than higher levels of government. These reasons help to explain the greater number of women at the local level, but why women well-represented at the national level than at the regional are level is probably the different electoral systems which apply. The number of Members of Parliament is 104, males 61 and females 41, the number of Ministers are 20 male and 6 female.

Stereotypes and harmful practices

7. A number of legislative enactments such as the Traditional Authorities Act have affected customary law. This piece of legislation provides for the establishment of traditional authorities within traditional communities, and defines the powers and duties of appointed traditional leaders. The Act also defines the scope of the mandate of traditional leaders and, thus, limits the autonomous, oppressive or tyrannical use of power by chiefs and headmen. In addition, the Act expressly sets out ways in which to settle disputes within the traditional community. Therefore, traditional leaders have to observe certain regulations before adjudicating on disputes. According to the Act, the Minister of Regional and Local Government, Housing and Rural Development has the responsibility of supervising traditional authorities. In this way, too, traditional leaders can be held accountable for failing to observe constitutional provisions and statutory regulations.

The government through the Ministry of Gender Equality and Child Welfare and civil society provides legal literacy programmes and GBV laws to traditional leaders. Article 66 of the Namibian Constitution states: **Customary and Common Law:**

(1) Both the customary and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary and common law does not conflict with this constitution or any other statutory law.

(2) Subject to the terms of this Constitution, any part of such common law or customary law may be repealed or modified by Act of Parliament, and the application thereof may be confined by particular parts of Namibia or to particular periods.

8. Measures taken to eliminate harmful cultural practices: The practices of child marriage are illegal as Article 14(2) of the Namibian Constitution says that "marriage shall be entered into only with the free and full consent of the intending spouses". The minimum age for marriage under Recognition of Customary Marriages Bill is put at age 18. When enacted, it will correspond with the current legal position for civil marriages for both a man and a woman which is 18 years of age. If a person is under the age of 21, both parents must consent to the marriage and if a person under age 18 wants to marry, this can only happen with consent from both the government and parents.

Widow inheritance and sexual initiation practices are not confirmed nor encouraged in the state party and there are no statistics available on the prevalence on these offences.

Violence against women

9. GBV in Namibia is being tackled through multiple channels involving the government, UN agencies, traditional authorities, youth leaders, civil and non-organisations, individuals, and the society at large. Various laws and legal framework form a background for the advancement of gender equality and combating of GBV such as: Married Persons Equality Act (No. 1 of 1996), Affirmative Action (Employment Act (No. 29 of 1998), Combating of Rape Act (No. 8 of 2000), Combating of Domestic Violence Act (No. 4 of 2003), Maintenance Act (No. 9 of 2003) and Criminal Procedure Amendment Act (No. 24 of 2003).

a) **Tightening of bail:** With cases of GBV, bail is not given easily depending on mitigating factors, especially when a person is killed it is difficult for one to get bail.

b) **Amendment to the Correctional Service Act of 2012 on parole:** Not yet amended, and the process has not yet started.

c) Legislations were proposed for amendments for stiff sentences, but they are yet to be effected.

d) **School curricular to contain aspects on the prevention and the sensitisation on GBV:** the MGECW has a programme with in-school and out-of school youth sensitising them on their rights under the gender related laws. In schools there are life science teachers who educate them on various issue of life including awareness on GBV and domestic violence among others.

e) **Campaign on GBV:** National awareness initiatives include, National Zero Tolerance Mass Media Campaign for GBV, launched in 2009 focusing on Baby Dumping, Passion Killing & Human Trafficking. A yearly 16 Days of Activism against GBV with activities happening throughout the country. Channels of dissemination include the mass media (Television, Print and Radio) and community based theatres that include a radio drama series in several Namibian languages.

Namibia has commenced work in the area of engagement of men and boys in achieving gender equality, linking issues such as preventing GBV, HIV, and promoting human rights at several levels. Lifeline/Childline, in collaboration with several stakeholders strides have been made towards the establishment of a functioning MenEngage network in Namibia. Although a new and budding development, the following progress has been recorded:

- Two strategic planning workshops with stakeholders have been conducted, which led to the development of a concept note and MOU for the network including a coordination structure which has seven (7) organisations appointed as steering committee members, with about twenty (20) organisations and institutions having shown an interest in becoming MenEngage members
- Capacity building workshops were conducted with over 25 organisations, aimed at strengthening and deepening the understanding of gender and the need to involve men and boys in the promotion of gender equality as well as addressing GBV.
- Lifeline/Childline as a member of the network facilitated MenCare Fatherhood sessions with over seventy (70) expectant and existing fathers on the importance of men's involvement in childcare.

- Involvement in National Policy dialogues, particularly around the revision and development of National Gender Instruments such as the Revised National Gender Policy, National Gender Plan of Action, National Plan of Action on GBV and the National Gender Coordination Mechanism
- Strong collaboration and commitment with development partners to further support the development of the MenEngage Namibia network.

f) Fast track the investigation and trial of GBV cases:

In order to reduce the backlog of all cases in our courts, including cases of gender based violence; the Government of the Republic of Namibia has introduced the following mechanisms:

In early 2015, a meeting attended by senior government officials in the Ministry of Justice, the Namibian Police, the Magistrates Commission, the Office of the Prosecutor General, the Namibian Correctional Service and the Anti-Corruption Commission, and senior magistrates took place at the town of Okahandja where the backlog of cases in Namibia's lower courts was the topic of discussion. Recommendations were made as to what best solutions should be adopted to this effect.

The Criminal Procedure Act, Act 51 of 1977 has been amended by inserting section 57A to give prosecutors authority to issue admission of guilt fines in cases where the prosecutor on reasonable grounds believes that a magistrate's court, on convicting an accused persons, will not impose a sentence of imprisonment or a fine exceeding N$6 000. Previously, this was only possible in cases where the prosecutor believes the sentencing court might only impose N$300 or 3 months imprisonment. With this amendment, it is possible to dispose a number of cases without requiring persons to appear in court thereby reducing the backlog in the criminal case load.

The Government through the Ministry of Justice has set up two dedicated special courts to deal with the backlog of cases in the district of Windhoek at magistrate court level; one court is dedicated to deal with corruption cases while the other deals with other offenses/crimes The Magistrate's Commission, is looking at the possibility of operating Saturday courts specifically to deal with backlog of cases.

The Ministry of Justice initiated a magistrate's project on the training of magistrates to increase the numbers of magistrates and prosecutors in the country. From 2008 to 2012 a total of 52 aspirant magistrates and prosecutors were trained.

The Government also entered into bilateral agreements with neighbouring countries, namely Zimbabwe and Zambia to employ magistrates and prosecutors on contractual basis to help reduce the backlog of cases.

g) Witness protection programmes:

We currently do not have a witness protection programme in the country. However, Sections **158A** and **216A** of **The Criminal Procedure Amendment Act, Act No. 24 of 2003** provide for the making of special arrangements for vulnerable witnesses. Moreover, section 153 of the Criminal Procedure Act, Act No. 51 of 1977, provide for the protection of witnesses in human trafficking cases.

10. a) The Ministry of Gender Equality and Child Welfare made submissions in March 2014 calling for the amendment of certain laws following the spate of

passion killings which plagued the Country. The 2nd Conference also called for these laws to be amended. The laws which were proposed for amendment were:

- The Criminal Procedure Act 51 of 1977, specifically Section 60, 61, 62 and hereof;
- The Combating of Rape Act 8 of 2000, particularly Section 3 thereof;
- The common law offence of Murder should be codified and life sentences imposed.
- Amendment to the Correctional Service Act of 2012 on parole

The above laws are yet to be amended.

b) The coordination of GBV programmes are now catered for by the coordination mechanism under the cluster on GBV and Human Rights.

(c) There is an allocation of budget under the MGECW's vote, which is insufficient to carry out GBV activities and researches. Now that there is coordination Mechanism in place for the implementation of NGP, all stakeholders are required to budget for the implementation of the GBV Plan of Action.

Violence targeting HIV positive women and the attendant low level reporting of such violence

(a) The shelters are available and are funded by the government.

(b) Protection orders are being ministered by magistrate courts, where they are violated culprits are arrested and prosecuted.

(c) There are hotlines (toll free) for 24 hours with Police countrywide and in Windhoek with City Police, and another one with a civil society namely Childline/Lifeline.

The Domestic Violence Act is already in use and operative. The challenges faced with its enforcement are that the victims of domestic violence often withdraw the charges against the respondent and there is no provision contained in the Act which prohibits these withdrawals. However, there is a directive by the Prosecutor General that cases of domestic violence should no more be withdrawn and the courts are adhering to the directive.

The Combating of Rape Act is not yet amended but it is in the list of the laws to be amended.

Trafficking and exploitation of prostitution

11. **Prosecution of perpetrators of human trafficking**

The absence of a specific legislation against human trafficking makes it a challenge for the judicial authorities to successfully prosecute alleged cases of human trafficking. It is also worth noting that the borders between Namibia and Angola, Namibia and Zambia and Namibia and Botswana remain porous and makes it difficult to prevent illegal entry and exit. Another factor contributing to allege human smuggling and trafficking is that there are families/relatives living along the border on either side. They speak the same languages and share similar cultural traits, and often children visit family members on the Namibian side. This fact

makes it difficult to identify victims of human trafficking and migrant smuggling. However, efforts are underway to train immigration officials in the identification of potential human trafficking and smuggling cases.

In the absence of the said law, several pieces of legislation can be invoked to prosecute some elements of human trafficking. For example, the Prevention of Organized Crime Act of 2004 provides for a mandatory fine of One (1) Million Namibian Dollars or 50 years imprisonment for people convicted of human trafficking. Several other provisions in the Labour Act, Act No. 11 of 2007, Rape Act of 2000 and the Combating of Immoral Practices Act of 1980 among others can also be invoked to prosecute cases of human trafficking and smuggling.

However, this provision does not address fully the various aspects of human trafficking Nevertheless; the Government has embarked on the drafting of dedicated legislation to operationalize the trafficking in person's protocol and there is a Bill in place on Combating of Trafficking in Person.

There is no concrete statistical data on perpetrators involved in trafficking in women and children yet. The research is not yet finalised as a result the findings are not yet known.

12. **Prostitution:** The state party wish to inform the Committee that prostitution is not legalized in Namibia. The Combating of Immoral Practices Act prohibits prostitution in the country. However, this does not mean that the rights of "sex workers" are not protected if violated. Article 8 of the Namibian Constitution read with Article 10 of the same Constitution protects all citizens of the country against inhuman treatment and indignity. All people living in Namibia are equal before the law. However, despite the illegal nature of this trade, no sex worker in Namibia has been arrested and prosecuted for doing their "work". They have their own organization that caters for their own needs, though it is not registered.

Sex workers who are victims of rape can report these cases to the police just like any other crimes and as such the Combating of Rape Act of 1990 will apply. The Act does not discriminate against sex workers and non-sex workers who are victims of rape.

Besides the above, training and education for sex workers on entrepreneurial skills, alternative sources of income and the risk associated with sex work are being provided by civil society organisations and churches. Civil society helps sex workers to find alternative means of employment. In 2007, 90 former sex workers in the Khomas Region were trained in hand-bags production, needlework, bread making, cake baking and fabric painting by the Women's Action for Development. In 2008 the Legal Assistance Centre conducted training on maintenance and gender-related laws for 100 active and former sex workers. The Council of Churches continue to provide rehabilitation skills training programmes for sex workers. Some of the sex workers have been successfully rehabilitated and are now working as kindergarten teachers, receptionists and lodge employees.

Protection of women in prostitution against violence and HIV

The government laws in place such as Combating Domestic Violence and Combating of Rape and Criminal Procedure Acts are aimed to protect all persons without discrimination. The Namibian Constitution also states in Article 10 of the Constitution that stipulating that (1) **All persons shall be equal before the law (2)**

No person may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed social of economic status. Therefore all citizens are enjoying the full protection in terms of our laws. When it comes to HIV/AIDS all citizens have equal access to health facilities without any discrimination and are provided with all medication including free medical prescription ARV. In state hospitals doctors and nurses do not asked questions of personal life so that they decide whether to treat a person or not. All people are treated equal. Therefore all people get treated whether they engage in prostitution or not. Their personal life is not a condition for treatment.

Participation in political and public life

13. There is progress in politics since the national elections of November 2014. There is 44.3% of women representation in National Assembly and 55.7% of men compared to 25% of women in the previous National Assembly. At the moment 42% of Local council members are women. Out of the 14 regional governors, 5 are women, an increase from 3 women governors.

Awareness on equal representation at all levels as per SADC Protocol on Gender and Development was intensified prior to 2014 National elections, thus the increase in women representation in politics. A National Conference on Women in Politics in Namibia was held in November 2013, which targeted the women's wings of all political parties. Several workshops and meetings for political parties and parliamentarians were held to sensitise them on the importance of equal representation in politics and at all levels of decision making.

Nationality

14. The government through the Ministry of Home Affairs and Immigration (MHAI) has since 2008, opened a total number of 21 birth registration offices in high volume hospitals across the country. During the period 2008-2013 the Ministry has registered 130 259 children under the age of one in these facilities. The MHAI worked together with the Ministry of Health and Social Services (MHSS) to ensure that a greater number of children in Namibia today is registered timely. According to the Namibia Population and Household Survey, 2011, 68,9% of all children are registered timely in Namibia. (See table 1). The Government through the MHAI is also reaching children through sub-regional offices in rural areas, and through mobile registration campaigns. Registration of death is also offered at the hospitals.

Table 1
Timely birth registration at hospital-based facilities in Namibia from 2008-2013

Hospital	*2008*	*2009*	*2010*	*2011*	*2012*	*2013*	*Total*
Andara	0	0	0	485	469	395	1 349
Eenhana	0	0	1 031	1 372	1 597	1 612	5 612
Engela	0	0	1 273	1 551	1 212	1 248	5 284
Gobabis	0	0	111	180	246	311	848
Grootfontein	0	0	0	0	523	0	523
KatimaMulilo	0	0	424	852	1 096	1 246	3 618

Hospital	*2008*	*2009*	*2010*	*2011*	*2012*	*2013*	*Total*
Katutura Hospital (Windhoek)*	1 743	7 308	8 122	8 384	7 785	5 706	39 048
Keetmanshop	0	0	575	698	853	830	2 956
Nankudu	0	0	0	439	340	336	1 115
Nyangana	0	0	0	257	259	244	760
Onandjokwe	0	0	2 909	2 950	2 501	2 525	10 885
Opuwo	0	0	67	321	126	0	514
Oshakati	0	0	3 355	3 804	3 362	3 982	14 503
Oshikuku	0	0	0	1 089	1 067	1 096	3 252
Otjiwarongo	0	0	595	524	863	832	2 814
Outapi	0	0	1 277	1 581	1 502	1 589	5 949
Rundu	0	0	2 030	2 119	2 221	2 362	8 732
Swakopmund	0	0	681	1 189	868	1 190	3 928
Tsandi	0	0	71	505	496	481	1 553
Walvis Bay	0	0	0	1 144	1 567	1 733	4 444
Windhoek Central Hospital	0	0	0	0	1 283	3 243	4 526
Total	**1 743**	**7 308**	**24 531**	**31 455**	**32 248**	**32 974**	**130 259**

* *The opening of Windhoek Central Hospital.*

Table 2
Population with birth certificate (BC) according to statistics from 2011 Namibia Population and Housing Census

Area	*Population with BC*	*% aged < 1 with BC*
Total	89.3	68.9
Zambezi	82.4	57.6
Erongo	93.8	87.2
Hardap	95.9	88.0
//Karas	95.9	92.9
Kavango (East & West)	76.9	48.7
Khomas	91.2	85.1
Kunene	88.6	64.0
Ohangwena	88.5	58.4
Omaheke	92.5	68.2
Omusati	90.5	69.4
Oshana	94.1	77.3
Oshikoto	89.7	56.6
Otjozondjupa	87.9	69.0

The statistics in the two tables 1 and 2 above show the issuing of birth certificates at all state hospitals in the country and not only at the Katutura State Hospital.

Challenges

The government is however experiencing challenges with late of registration of children as a result of various cultural names practices, long distances to registration points and fathers who are not married to the mothers being absent at the time of registration.

Initiative

The government is carrying out education on the importance of birth registration to be done immediately after the birth of a child. To this extent, the government is conducting public outreach activities through various channels, namely at ante-natal and post-natal programme, the national and local media, and at public meetings.

The government has also National Population Registration Bill in place, which will govern births, marriages, identifications and deaths. The issue of immediate registration of birth of a child is covered in that Bill.

Education

15. The Teenage Pregnancy Policy which is in place and being implemented allows the expectant learner to stay in school until the time of delivery and she can come back immediately after delivery provided that she is healthy and there is a conducive environment which allowing her to breastfeed the new born baby.

Measures taken to address the high rate of teenage pregnancies

The government is providing life skills in schools for learners to understand the dangers and effects of teenage pregnancies. The government together with its stakeholders provides training on family planning to learners and provides free family planning services at government hospitals and clinics.

School development fees

Article 20 of the Namibian Constitution provides that all persons in Namibia shall have the right to education. It further provides that primary education shall be compulsory and shall be provided free of charge at State schools. In 2001 Parliament passed the Education Act, (Act 16 of 2001) to give effect to the Constitution and other international instruments. Formal basic education is now free and compulsory from grade one when the child reaches the age of 7 until the last school day of the year when the child reaches the age of 16, or when s/he completes primary education. Under the Education Act (Act No.16 of 2001), free basic education is extended to Grade 12, but now it is extended up to grade 7 to be fully implemented up to grade 12 from 2016.

Free education in the context of Basic Education means that no fees are charged for attendance, tuition, or textbooks; and parents are not to contribute to any school development fund. However, some school boards at some schools recommend that parents should contribute the school development fund or school petty cash for taking care of daily administration issues. In cases where parents cannot afford it, their children are prevented to be accepted at these schools or to attend classes.

Employment

16. The Affirmative Action (Employment) Act No 29 of 1998 requires employers to prepare affirmative action plans setting forth steps to improve the representation of persons with disabilities and women, in the workforce. Progress in implementing affirmative action measures are monitored by the Government through the Employment Equity Commission. Non-compliance results in disqualification of employers from state contracts and concessions.

It is also noteworthy to mention that the Traditional Authority Act No 25 of 2000 provide procedures for official recognition of traditional authorities requires that they "promote affirmative action amongst the members of that community" particularly by "promoting women to positions of leadership". Although the Act does not contain specific monitoring or enforcement mechanisms, at least it provides a basis for encouraging greater participation by women in traditional leadership positions.

The Gender Research and Advocacy Project of the Legal Assistance Centre (LAC) has and continue to make a major input in the advancement of women rights in Namibia. No woman has approached the courts in Namibia, since independence claiming sex discrimination.

Tax laws in Namibia now treat all individuals equally, men or women, married or single. The Labour Act, Act No 11 of 2007 forbids discrimination in any aspect of employment on the basis of sex, marital status or family responsibilities, amongst other grounds. The Act guarantees 12 weeks of maternity leave to all female employees who have been working for the same employer for at least one year.

Health

Maternal health

17. Through the Fourth National Development Plan (2013-2017) the Government has identified access to quality health services as a key priority to increase the standard of living for people living in urban and rural areas.

The Government monitors the progress on maternal mortality through the Demographic Health Survey (DHS). The last DHS was carried out during 2006/2007. Given the available data at our disposal, the Government acknowledges that the maternal mortality ratio has increased from 225 deaths per 100,000 live births in 1992 to 449 deaths per 100,000 live births in 2006/2007 which is unacceptable. Since then the Government has prioritized maternal mortality as matter of urgency by providing increased maternal healthcare services and a more equitable distribution of trained staff between urban and rural areas, amongst others.

The following are some of the major interventions and policies in place geared toward the reduction of maternal mortality in Namibia:

- Road map for acceleration of reduction in maternal and neonatal mortality and revision of scope of practice for the health profession-Nurses and Mid-wives.
- Increase in capacity building (Establishment of Namibia School of Medicine and other regional nursing training centres)
- Information awareness campaign on Health issues.

- Prevention of Mother to Child transmission (PMCT) currently stands at 92%.
- Increased access to Anti-Retroviral Drug which currently stood at: adults 82%, children 75%. HIV/AIDS was one of the major factors contributing to the high maternal mortality in the country.
- The reduction in the malaria mortality rate is an achievement as the incidence of malaria was also one of the contributing factors for high maternal mortality among expecting mothers.
- The Policy guide line on reproductive health has been revised in order to create more awareness among couples to make informed decision about reproductive health and births.
- Guidelines for completing the Maternal and Peri/Neonatal death review are in place and maternal audit committees are in place in national, regional and district levels to review and assist the quality of services provided to the pregnant women
- Approximately 150 midwives and medical officers working in maternity wards underwent refresher training on life saving skills in order to improve the quality of care.
- Decline in new HIV cases amongst pregnant women attending ANC. (8% of women who tested HIV were positive in 2011/2012 compared to 18% 2009/2010).

The key health challenges the country faces include an HIV/AIDS epidemic, tuberculosis, malaria, emerging non-communicable diseases, maternal and child health and environmental health.

The Ministry of Health and Social Welfare continues to prioritize programmes targeting HIV and AIDS in order to decrease the prevalence rate, which is currently at about 18%. The Fourth National Development Plan (NDP4 2013-2017) goal in the health sector is to increase access to quality health systems, in terms of prevention, cure and rehabilitation, characterized by an increase in the healthy adjusted life expectancy. The Ministry of Health and Social Services which receives the fourth largest budget in the Government will work with all relevant partners to ensure that this goal is met.

The Government has established a National Strategic Framework for HIV and AIDS Response in Namibia 2010/11-2015/16, where community participation and involvement in scaling up the national response is being encouraged. The Government strategy relies on strengthening the capacity and management of HIV response at community level.

The health sector is guided by the Ministry's Overall Health Policy Framework, which was revised for the period 2010-2020. The policy is based on the tenets of primary health care approach, which include equity, inter-sectoral collaboration and community participation.

Abortion

As far as measures that have been taken to ease the complex and onerous administrative procedures for obtaining approval for abortion, it is stipulated in the Abortion and Sterilization Act 1975 that abortions are only allowed when

continuing the pregnancy will "endanger the woman's life or constitute a serious threat to her physical or mental health or there must be a serious risk that the child to be born will suffer from a physical or mental defect so as to be irreparably seriously handicapped, when the foetus is alleged to have been conceived in consequence of unlawful carnal intercourse (rape or incest); or when the foetus has been conceived in consequence of illegitimate carnal intercourse and the woman is, owing to a permanent mental handicap or defect, unable to comprehend the implications of or bear the parental responsibility for the "fruit of coitus".

Disaggregated data is not available as infanticide is not a specific crime, therefore data for baby-dumping and infanticide is usually recorded as a crime of concealment of birth combined with a charge of abandonment, culpable homicide or murder.

Baby dumping and illegal abortions

When a baby is abandoned a social worker investigates and submits a report to the court on the placement of the child. The child can be placed in a place of safety, which can be an institution, a family member or suitable individual by any police officer, probation officer or social worker.

After the investigation the child can be placed in foster care either in an institution or with an individual; according to the Children's Act sec 1 (X), if it is found by the court that the child is in need of care as the child was abandoned or without visible means of support, is in the state of physical or mental neglect or is being maintained apart from his parents or guardians in domestic circumstances which are detrimental to his/her interests.

A child that has been dumped can also be adopted without the consent of his/her parents, after reasonable efforts to place a child in other options of care have been exhausted. This is done in accordance with section 72 (1) (b) (c) of the Children's Act 33 of 1960.

To avoid baby dumping in the country contraceptives are obtainable free at any state hospitals or clinics country wide. Counselling is provided by social workers employed by the MGECW and by the Ministry of Health and Social Welfare. Furthermore workshops are being held to educate girls about contraceptives, to abstain from sex and concentrate on own personal development.

Forced/coerced sterilisation targeting HIV positive women

18. Forced or coerced sterilization of women living with HIV refers to the sterilization without free, full and informed consent. In Namibia, the International Community of Women with HIV/AIDS (ICW Global), together with the Namibia Women's Health Network, has supported eighteen survivors of forced or coerced sterilizations to file lawsuits against the Government of Namibia denouncing the violation of the right to be free from cruel, inhumane and degrading treatment, the right to equality, and the right to be free from discrimination, among others.

Three of the cases have to date been heard in court, with the ruling recognizing that the women did not give their consent to be sterilized and ordering compensation. This recognition of the violation of the rights of women living with HIV was however met with an appeal by the Government of Namibia, which is currently before the High Court. The ICW has called for the appeal to be dropped, urging

global leaders to support an online petition to stop delaying justice for the women living with HIV, survivors of human rights violations. While the appeal hearing took place on 17 March 2014, the resolution of the appeal continues to be pending to date.

Number of persons who are HIV positive

HIV prevalence in Namibia is measured through data collected from pregnant women. In 2008, HIV prevalence was 17.8%, a marked decrease from 22% in 2002. The highest prevalence rate is reported amongst people aged between 30-34 years. Although the prevalence of infection appears to be increasing in adult age groups, the prevalence of HIV infection in those aged 15-19 and 20-24 years has decreased from 11% to 5.1 and 22% to 13.9% respectively between 2002 and 2008. The prevalence rate for urban and rural residents is similar.

A total of 164 609 people registered for counselling and testing in 2008-2009 with more females (68.80%) than males (31.2%) accessing these services. The burden of the epidemic is now affecting people in their thirties therefore more focus must be placed on the needs of this age group.

Further, Government has also prioritized the prevention of mother-to-child transmission. According to a recent report on the 20 countries in the world with the highest rate of HIV infection, Namibia is one in four countries that have achieved the target of providing approximately half of all HIV positive pregnant women with this treatment.

Measures in place to address the prevalence of HIV infection of people

The Government adopted a National Health Policy 2010-2020. Most of the Primary Health Care Policies of the World Health Organization have been incorporated into this Policy.

In our national efforts to combat HIV/AIDS, the Government launched a Strategic Plan Programme in 1999, and in 2009 the Government launched the HIV/AIDS Policy that calls on all stakeholders to contribute to the fight against HIV/AIDS and Prevention. An amount of N$7,6 million (US$800,000) has been allocated to fight HIV/AIDS and Prevention from 2005 to 2012 financial years.

The Government also launched the Third Medium Term Plan (MTP3). The MTP3 national goal purpose is to reduce the incidences of HIV/AIDS below the epidemic threshold of one percent. The Government through the Ministry of Health and Social Services had achieved great strides in the five components of dealing with HIV/AIDS, namely, Enabling Environment, Prevention; Access to treatment; Care and Support Services; Impact mitigation; and Integrated and Coordinated Programme Management. These achievements include among others, launching of the National HIV/AIDS Policy and the hosting of the first National HIV/AIDS Male Leaders Conference aimed at empowering them to mainstream HIV/AIDS response to all sectors in the country. Male circumcision is also being encouraged by Government as one effort to reduce HIV/AIDS.

The results from the Biennial Sentinel Survey shows that incidence of HIV/AIDS raised from 19.3% in 2000 to 22.0% in 2002, and stabilized thereafter at 19.7% in 2004 and 19.6% in 2006 to 16.8% in 2010. All Namibians have access to health facilities and antiretroviral medicine is offered to them free. Approximately 131 158 of infected people need ARV treatment in the country, and 75 681 people were on

ARV treatment as at March 2010 which increased to 110 053 people during 2012/13 financial year. The programme started in 2004 at all state hospitals.

Rural women

19. The Communal Land Reform Act No. 5 of 2002, Section 26 state clearly that "upon the death of a land right holder the land revert back to the traditional authority for re-allocation forthwith:- "Upon the death of the holder of a right referred to in subsection (1) such right reverts to the Chief or Traditional Authority for re-allocation forthwith:-

a) To the surviving spouse of the deceased person, if such spouse consents to such allocation; or

b) In the absence of a surviving spouse, or should he or she not consent as contemplated in paragraph (a) ,to such child of the deceased person as the Chief or Traditional customary law".

The Namibian Constitution in Article 66: Customary and Common Law also made it as follows:

(1) Both the customary and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary and common law does not conflict with this constitution or any other statutory law.

(2) Subject to the terms of this Constitution, any part of such common law or customary law may be repealed or modified by Act of Parliament, and the application thereof may be confined by particular parts of Namibia or to particular periods.

Challenges

The challenge is that the level of understanding of laws within the community is not at the same level therefore some communities members are not reporting cases or their concerns to the relevant authority to be addressed in time.

Property grabbing from widows

Marriage in Namibia whether civil or customary law marriage continue to enjoy the protection through Namibian courts as provided for in Article 12 of the Namibian Constitution. The Surviving spouse particularly women, are free to approach the courts if their properties are being grabbed by the relatives of her deceased husband.

The Ministry of Justice's Directorate of Legal Aid which is established to administer legal aid scheme pursuant to the Legal Aid Act No. 29 of 1990, with an obligation to render free legal aid in both civil and criminal cases. The criteria for granting legal aid are the level of income and the merits of the case. Any person can apply for legal aid if he /she cannot afford the services of private legal practitioners provided she/he falls under the income category of people to be assisted. An applicant may be granted the services of a legal aid Counsel or a private legal practitioner may be instructed to represent the applicant.

Solution on land acquisition and property grabbing

In addressing this challenge, the government is carrying out public education in all regions to ensure that all community members know their rights and obligation when it comes to allocation of lands including property grabbing. The government

has also a decentralization policy aimed at involving all members of the community including indigenous community to take part in identification, planning and designing of programmes which are addressing citizens' needs.

Example of existing programmes:

The government works closely with traditional leaders through the Regional Councils to ensure that women do not experience discrimination in accessing or owning land. The Government through the Ministry of Gender Equality and Child Welfare' Community Development and Women Empowerment Programme also works with community to improve access to services as well as the living conditions of women, particularly in rural areas.

San indigenous women

The Namibian Government through the Office of the Prime Minister established the San Development Programme in 2005. The Programme is run by the Special Projects Division in the Office of the Prime Minister which is mandated by Cabinet to ensure that the formerly marginalized ethnic minorities in Namibia are fully integrated in the mainstream economy. The Programme mainly focuses on resettlement, sustainable livelihood support programmes, education, land and income-generating initiatives for formerly marginalized communities.

The Government, through the Ministry of Lands and Resettlement acquired land in both communal (five projects) and commercial areas (four projects) where some San Communities have been resettled. Four of the nine projects, translate into about 18,600 ha of land acquired in commercial area with 358 families being resettled. Three of the five projects are farms in communal areas with a size of 18,333 ha, which are allocated to 281 San families, while the other farms were allocated to 313 families.

The San Development Programme has been expanded to include other ethnic minorities such as the Ovatwa and Ovahimba. The Government set up an Inter-Sectoral Task Force to formulate policy guidelines for educationally marginalized children (EMC), to coordinate the activities of Ministries, NGOs, and other stakeholders regarding EMC, in order to promote access to education for formerly marginalized communities. A policy document entitled "National options for educationally marginalized children" was formulated and adopted by Government in 1998. EMC include children from the San community, the Ovahimba community and children in various urban centres. Reasons for the lack of access to school for these children are: poverty within the families; negative societal attitudes; and high illiteracy rates of parents thus not valuing education.

In order to ensure that the Ovahimba children get access to education, the Ministry introduced mobile school units. Co-operation between the Ministry of Education and the Namibia Association of Norway made it possible to start the mobile school units for the Ovahimba community in Kunene Region. This intervention is aimed at providing access to education to the Ovahimba children without uprooting their traditional way of nomadic life.

Amendment to article 20 (1) of the Convention

20. Namibia has not acceded to the amendment of Article 20, paragraph 1 of the Convention.